

In the Court of Appeals of the State of Alaska

Carlton William Donnelly,
Appellant,

v.

State of Alaska,
Appellee.

Court of Appeals No. **A-13597**

Order

Date of Order: **October 1, 2021**

Trial Court Case No. **3AN-11-13926CR**

Before: Wollenberg, Harbison, and Terrell, Judges

Carlton William Donnelly is appealing his convictions for misconduct involving a controlled substance and misconduct involving a weapon. Through his attorney, the Public Defender Agency, Donnelly previously received two extensions of time to file the opening brief in this case.

Donnelly initially requested, and received, a full 390-day extension under Standing Order No. 12.

At the expiration of this time in early June 2021, Donnelly requested an additional extension of 150 days. In that extension request, the supervising attorney of the appellate section at the Public Defender Agency, Deputy Public Defender Renee McFarland, stated that Mr. Donnelly's case was number 8 on the Agency's assignment list, and that she had not yet assigned the case. She explained, however, that her requested extension was intended to allow the assigned attorney to work on the case without undue delay and thus be able to meet the briefing deadline without the need to request an additional extension. This Court granted the lengthy extension request (until November 5, 2021), finding that extraordinary circumstances justified the extension of time.

Two weeks later, Assistant Public Defender Sharon Barr entered her appearance in this appeal.

Ms. Barr has now moved for another extension of time to file the opening brief. In particular, Ms. Barr seeks an extension of time from November 5 until December 30, 2021 — an additional 55 days. If the Court grants this request, the time for filing the opening brief in this case will be extended 595 days — significantly beyond the 390-day limit set out in Standing Order No. 12.

Notwithstanding the length of time this case has been pending, it is clear from Ms. Barr’s affidavit that little, if any, work has been done on this appeal. When Ms. McFarland requested a 150-day extension in June 2021, she stated that her intent was to ask for an extension that would allow the assigned attorney to work on, and complete, the opening brief without the need to request an additional extension. But — while we have recognized in several recent orders (including a July 15, 2021 order in Mr. Donnelly’s other appeal, File No. A-13598) that an extension request made when the appeal has not yet been assigned is, at best, only a guess as to when the opening brief would be filed — the clear expectation in the last request (and our expectation in granting it) was that the opening brief would be actively worked on during the 150-day period.

As of today, that apparently has not occurred, primarily due to competing work responsibilities. While we do not question Ms. Barr’s diligence in working on her cases, the ordinary press of business and resource shortages at the Public Defender Agency are not “extraordinary and unforeseeable circumstances” justifying an extension

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of time beyond the limit of Standing Order No. 12.

Given the significant length of time this case has been pending, we decline to grant the requested extension of time.

Accordingly, the motion for a non-routine extension of time to file the appellant's opening brief is **DENIED**. The opening brief in this case remains due on or before **November 5, 2021**.

Entered at the direction of the Court.

Clerk of the Appellate Courts

A handwritten signature in black ink, appearing to read 'Kaitlin D'Eimon', written over a horizontal line.

Kaitlin D'Eimon, Deputy Clerk

cc: Court of Appeals Judges

Distribution:

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